

## **19A NCAC 02D .0404 MAINTENANCE WITHIN MUNICIPALITIES**

(a) Definitions and Abbreviations. The following is a listing of definitions to provide greater understanding of this Rule:

- (1) Municipality means an incorporated city or town within the State of North Carolina.
- (2) The State Highway System includes those streets and highways as described in G.S. 136-44.1.
- (3) State Municipal System Street or Highway is any street or highway on the state highway system within a municipality.  
Note: See G.S. 136-66.1(1)
- (4) Non-State System Municipal Street or Highway (Municipal System) is any street or highway accepted by the municipality which is not a part of the state highway system. [Note: See G.S. 136-66.1(2)]
- (5) A Rural Highway or Street is highway or street on the state highway system outside the limits of a municipality.
- (6) Board means the Board of Transportation.
- (7) Maintenance means routine care or upkeep to keep roads, streets or highways in the existing condition and with the existing traffic carrying capacity.
- (8) Pavements are the paved portion of streets including paved shoulders and on street parking areas but does not include sidewalks and driveways.
- (9) Storm Drainage or Storm Sewers means a system of underground pipes, culverts, conduits or tunnels including drop inlets and catch basins, designed to convey water from surface areas to eventual disposal into outfall streams.
- (10) Open Drainage means drainage systems utilizing open side ditches, tail, lateral and outfall ditches to convey surface water to outfall streams.
- (11) Cross Pipe Lines are pipe lines under the roadway surface, designed to convey water from one side of a street or highway to the other.
- (12) Shoulder is earthen, soil, clay, gravel or turf section of pavement support extending from outer pavement edge to the bottom of side ditch, including shoulder sections which are paved.
- (13) Sidewalk means walkway, paved or unpaved, parallel to streets or highways.

(b) Maintenance Responsibility.

- (1) The streets and highways comprising a part of the state highway system, at all times, are the responsibility of the Department of Transportation and this overall responsibility is not shifted to the municipality by reason of their assumption, under reimbursable contract, of maintenance, construction, or improvement on behalf of the Department of Transportation as outlined in G.S. 136-66.1.
- (2) The cost of municipal maintenance is paid for out of funds allocated by the Board for this purpose.
- (3) The Department of Transportation within its discretion may enter into contracts with municipalities for the purpose of maintenance, repair, construction, reconstructing, widening or improving state system streets within municipalities.
- (4) The maintenance of state system streets may be performed by the municipality by a continuing agreement with the Department of Transportation on a reimbursement basis. Such an agreement may be executed covering all or part of maintenance operations on all or a part of the state system streets within the limits of the municipality involved.

(c) Policies and responsibilities.

- (1) Patching and resurfacing of pavements is the responsibility of the Department of Transportation.
- (2) Repairs for pavement cuts for utility repair and other purposes by or under the control of the municipality shall be the responsibility of the municipality. The Division of Highways district engineer, or his designated representative, shall be notified in writing 48 hours in advance of any pavement cut and approval must be obtained prior to making the cut. Pavement cuts due to emergencies shall proceed as necessary with the Division of Highways district engineer being notified as soon as possible after the emergency is discovered and the pavement cut is made or anticipated.  
Note: See G.S. 136-93.
- (3) If the maintenance of any state system street is performed by the municipality, then it shall be the responsibility of the municipality, subject to the approval and direction of the Department of Transportation, to install and maintain proper signs, barricades and other safety devices of like nature and to furnish flagmen when necessary; all in accordance with the Manual for Uniform Traffic Control Devices (MUTCD).
- (4) An encroachment agreement is required for the initial installation of any utility on the state highway system right of way by the municipality as well as by utility companies and individuals.
- (5) Drainage:
  - (A) The maintenance of roadway ditches including median drainage, where applicable, and cross drainage pipes, outfalls and structures is the responsibility of Department of Transportation within the highway right of way or within a drainage easement area.
  - (B) The maintenance of storm drainage and storm sewer systems draining state system streets is the responsibility of the Department of Transportation, within the highway right of way or within a drainage easement area. Where systems draining state system streets are enlarged and expanded to accommodate drainage from municipal streets, the initial cost and the maintenance cost shall be borne jointly by agreement.
  - (C) Attachments to drainage structures -- Written approval of the Department of Transportation is required prior to any utility or other attachment being made to any bridge or structure on the state highway system. Approval is also necessary before turning any utility under or through a bridge or drainage structure on the State Highway System.
- (6) Sidewalks. The maintenance of sidewalks is a municipal responsibility.
- (7) Roadside Maintenance:
  - (A) Freeways, interstate and other controlled access highways. All planting, plant maintenance, mowing, erosion control, and litter pickup are the responsibility of the Department of Transportation, except as otherwise provided herein.
  - (B) Non-controlled Access Surface Streets
    - (i) Without sidewalk or pedestrian space (paved or unpaved). Erosion control, machine mowing, litter pickup and the maintenance of trees over the entire width of right of way are the responsibility of the Department of Transportation. Maintenance of shrubs or other planting is also the responsibility of the Department of Transportation subject to the provision providing for specific planting projects as outlined in Part (7)(C) of this Paragraph.

- (ii) With sidewalk or pedestrian space (paved or unpaved). Since the area outside of the curbs or within and beyond the sidewalk or pedestrian space is used almost exclusively for pedestrians, the maintenance of such areas is the responsibility of the municipality.
- (C) Specific planting projects on state highway system right of way. Should the municipality desire more extensive planting than is provided by the Department of Transportation, a plan for such proposed planting shall be submitted to the Department of Transportation and shall be considered a construction or improvement item. An individual permit and agreement on Department of Transportation and municipal responsibilities for planting and plant maintenance will be required in each instance, covering not only financial responsibility but also the furnishing of personnel, equipment and materials for performing plant maintenance and associated hand mowing operations.
- (D) Proposed planting by civic organizations. Civic organizations desiring to provide more extensive planting of trees and shrubs in the municipality on Department of Transportation right of way than is provided by the Department of Transportation shall handle negotiations through the municipality as outlined in Part (7)(C) of this Paragraph.
- (8) Snow and Ice Control:
  - (A) The responsibility for clearing state system streets is the responsibility of the Department of Transportation; however, municipalities may, with the concurrence of the division engineer, execute an agreement with the Department of Transportation providing for reimbursement by the Department of Transportation to the municipality for the assumption of this responsibility.
  - (B) The removal of snow from sidewalk areas is not the responsibility of the Department of Transportation.
- (9) Guard Rail. The maintenance, repair and replacement of guard rail on Highway System streets and highways is the responsibility of the Department of Transportation.
- (10) Street Lighting:
  - (A) Freeways -- Interstate System and Other Controlled Access Highways. Where in the judgment of the Department of Transportation street lighting is necessary, the maintenance and the electric current necessary for the operation of the lighting system shall be the responsibility of the Department of Transportation.
  - (B) Other System Streets. The maintenance and the electric current for lighting systems on other than as referred to in Part (10)(A) of this Paragraph is the responsibility of the municipality, unless otherwise provided for by specific agreement.
  - (C) The installation of street lighting systems by the municipality on state system streets within the right of way may be allowed by the Department of Transportation by encroachment agreement only.
- (11) Blocking of Traffic Lanes. In order to provide for the safe movement of traffic, it is a joint responsibility between the Department of Transportation and the municipality to insure that traffic lanes be kept open and if blocked at any time for any reason that such blockage is properly signed or flagged.

*History Note: Authority G.S. 136-66.1; 136-93; 143B-346; 143B-350(f); 143B-350(g);  
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